

REMARKS

This Amendment is in response to the Office Action, dated December 3, 2010 ("Office Action"). Claims 1-5, 7-8, 10 and 18 are pending in the instant application; claims 1-5, 7, 10, 18 having been amended and claims 11, 13-14, and 16-17 having been canceled by virtue of the present amendment (claims 6, 9, 12, and 15 having been previously canceled). No new matter is added. Examination of the claims in view of the ensuing remarks is respectfully requested.

Claim 1-5, 7-8, 10 and 18 have been amended to remove "derivative" from the claims.

Claim 1 has also been amended to change "may be" to "is."

Claims 5 and 18 have also been amended to indicate that the residue(s) is "further" substituted or deleted.

Claim 7 has also been amended to change "comprising" to "consisting of."

Claim 10 has been amended to delete "preventing and/or" from the claim.

On February 28, 2010, an Interview was conducted between Applicant's counsel, Linda Truong, and Examiner Chih Min Kam. Possible claim amendments were discussed. Examiner Kam stated that the claim amendments as set forth in this Amendment appears to place the application in condition for allowance. The rejoinder of claims was also discussed. Examiner Kam indicated that she will rejoin claim 10 if "preventing" is removed from the claim. Applicant thanks Examiner for her time and assistance.

Claims 1-2, 5, 8, and 18 remain rejected under 35 U.S.C. §112, first paragraph, as allegedly failing to comply with the written description requirement for reasons of record. The states that the claim language reciting "may be" with respect to the selection of the amino acid does not allow for one skilled in the art to readily identify a functional peptide and thus, Applicant is allegedly not in possession of the claimed invention. Applicant respectfully traverses this rejection.

While Applicant in no way concedes to the merits of the Examiner's rejection, claim 1 has been amended to change "may be" to "is" with respect to the amino acid that is to be selected. In light of this amendment, Applicant submits that claim 1 and claims that depend

therefrom complies with the written description requirement. Applicant respectfully request reconsideration and withdrawal of this rejection.

Claims 1, 2, 5, 7, 8 and 18 are rejected under 35 U.S.C. §112, second paragraph, as allegedly being indefinite. According to the Examiner, claims 1, 2, 5, 8, and 18 are indefinite as to the phrase “selected from the group consisting of a positively charged residue, which may be Arginine (R), Lysine (K) or Histidine (H)” in which is it allegedly unclear what are the metes and bounds for a positively charged residue. Applicant respectfully traverses this rejection.

While Applicant in no way concedes to the merits of the Examiner’s rejection, claim 1 has been amended to change “may be” to “is” with respect to the amino acid that is to be selected. In light of this amendment, Applicant submits that claim 1 and claims that depend therefrom are not indefinite. Applicant respectfully requests reconsideration and withdrawal of this rejection.

Claims 5 and 18 are allegedly indefinite because neither further limits the claims from which it depends. Applicant respectfully traverses this rejection.

While Applicant in no way concedes to the merits of the Examiner’s rejection, claims 5 and 18 have been amended to recite that the residue(s) is “further” substituted or deleted. In light of this amendment, Applicant submits that claims 5 and 18 are not indefinite. Applicant respectfully requests reconsideration and withdrawal of this rejection.

Claim 7 recites the limitation “comprising the amino acid sequence” in line 2. According to the Examiner, there is insufficient antecedent basis for this limitation in the claim (claim 1), which recites “the isolated polypeptide ... is” (emphasis in original). Applicant respectfully traverses this rejection.

While Applicant in no way concedes to the merits of the Examiner’s rejection, claim 7 has been amended to change “comprising” to “consisting of.” Applicant respectfully requests reconsideration and withdrawal of this rejection.


Claims 3 and 4 are objected to as depending from a rejected claim. Applicant respectfully traverses this objection.

Claim 1, as discussed above, is allowable. Thus, Applicant respectfully requests the withdrawal of this objection.

Applicant respectfully request rejoinder of claim 10. Applicant submits that claim 1 is allowable; thus, claim 10, being dependent on claim 1, should be rejoined and is allowable.

All of the claims in the application are now believed to be allowable. Favorable consideration and a Notice of Allowance are earnestly solicited. If for any reason Examiner finds the application other than in condition for allowance, Examiner is requested to call the undersigned attorney at the Los Angeles telephone number (213) 633-6800 to discuss the steps necessary for placing the application in condition for allowance.

Respectfully submitted,
CURTIS DOBSON
DAVIS WRIGHT TREMAINE LLP

By 
Linda Truong
Attorney of Record
Registration No. 56,461

865 South Figueroa Street, Suite 2400
Los Angeles, CA 90017-2566
Phone: (213) 633-6800
Facsimile: (213) 633-6899